

NEW MEXICO SCHOOL FOR THE DEAF

1060 Cerrillos Road

Santa Fe, NM 87505

Phone 505-476-6300 • Fax 505-476-6315

E-mail Sam.Montoya@nmsd.k12.nm.us

November 21, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Re **CC Docket No. 02-6**
Petition for Waiver
FCC Form 471 No. 835905, 860470
Applicant: New Mexico School for the Deaf, BEN 99286

Dear Ms. Dortch,

With this letter New Mexico School for the Deaf ("NMSD") requests a waiver of the FCC Form 471 filing window deadline for Funding Year 2012 under the schools and libraries universal service support mechanism (E-Rate).

Background

NMSD is a school dedicated to serving the special educational needs of about 150 New Mexico deaf and hearing-impaired students.

Due to budget constraints, NMSD's IT operations staff consists of only one person, even though the position should be staffed by at least 2.5 FTEs (full-time equivalents). This person, who is responsible for all technology at two campuses, is also responsible for NMSD's E-Rate filings.

For the 2012 E-Rate Funding Year, NMSD began planning well in advance. We submitted our Funding Applications within the funding window, and we fully complied with the E-Rate competitive bidding requirements (including posting Form 470 for at least 28 days). However, due to a misunderstanding between ourselves and the consultants who were helping us, we were inadvertently late in submitting the certification for our two Funding Applications.

Since all of NMSD's students are deaf or hearing-impaired and have special educational needs, NMSD is absolutely dependent on the E-Rate discount in order to prepare its students for successful and productive lives and careers.

Analysis

NMSD filed its Funding Applications on 3/20/2012, within the annual filing window; it is only our certification which was delayed. To the best of our knowledge, our E-rate funding applications are otherwise in full compliance with all FCC rules and USAC requirements.

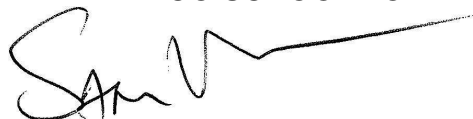
In *Acorn Public Library District*¹, the Wireline Competition Bureau ("Bureau") found that a delayed certification filing for a timely-filed Form 471 (or for a Form 471 filed not more than 14 days after the filing window deadline) was not likely to impede USAC's ability to administer the E-Rate program. The Bureau found that the violation at issue was procedural, not substantive, and the Bureau found further that complete rejection of such applications is not warranted. The Bureau concluded that in these cases it is in the public interest to waive the FCC Form 471 deadline. The Bureau has upheld this precedent in several subsequent Orders².

We note that denial of our funding request would impose severe hardship upon NMSD, and the effect of such denial would be a profound adverse impact upon the educational services we provide for our students. The consequences of a denial of funding would be inconsistent with the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

Request for Waiver

For the reasons stated in this letter, NMSD respectfully requests that the Federal Communications Commission grant a waiver of the FCC Form 471 filing window deadline for NMSD's Funding Year 2012 E-Rate funding applications.

NEW MEXICO SCHOOL FOR THE DEAF



Sam Montoya
IT Manager

¹ *Acorn Public Library District Order*, 23 FCC Rcd 15474

² E.g., *Academy of Math and Science Order*, 25 FCC Rcd 9256; *Argos Public Library Order*, 25 FCC Rcd 16109; and others

NEW MEXICO SCHOOL FOR THE DEAF

1060 Cerrillos Road

Santa Fe, NM 87505

Phone 505-476-6300 • Fax 505-476-6315

E-mail Sam.Montoya@nmsd.k12.nm.us